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Officials Object to Prosecution of News Media

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WASHINGTON—Justice Department and White House officials are privately raising legal and political objections to the CIA's virtually unprecedented call for prosecution of news organizations for publicizing national security secrets.

CIA Director William J. Casey has asked the Justice Department to prosecute the National Broadcasting Co. and is now considering whether to recommend prosecution of the Washington Post for publicizing information about secret eavesdropping operations carried out by U.S. submarines against the Soviet Union, even though the Justice Department rebuffed a similar CIA request in another case earlier this month.

Casey Cites 1950 Law

Casey contends that NBC and the Post may have violated a 1950 law prohibiting disclosures concerning secret communications intelligence. Privately, however, Justice Department officials say prosecuting either organization would raise serious legal problems because most of the information in the two accounts had been publicized previously. And White House officials say prosecution also would raise political problems that could prove distracting while the Administration is wrestling with more crucial issues, including budget and tax legislation.

"This is obviously a departure from past policy and involves an area that has potential to cause political trouble for the Administration," one senior aide said. "We don't need it."

Air Strike on Libya

According to the White House officials, Casey is actually less interested in filing criminal charges than in using the threat of prosecution to gain cooperation from the media in protecting what he considers national security secrets.

Casey initially cited the 1950 law—never before invoked against news organizations—earlier this month in asking the Justice Department to prosecute the Post, the New York Times, the Washington Times, and Time and Newsweek for publishing classified material on the U.S. air strike against Libya.

Although Casey said he made it clear he thought the law had been violated, Justice Department officials refused to prosecute.

The latest case concerning NBC and the Post stems from their reports in connection with the criminal case of Ronald W. Pelton, a former National Security Agency employee who is being prosecuted in Baltimore on espionage charges. Pelton allegedly provided the Soviet Union with information concerning the intelligence-gathering activities of U.S. submarines in Soviet waters.

Casey moved against NBC last Monday after it aired a report mentioning the underwater intelligence program and identifying its code name as "Ivy Bells."

Post Revised Article

Meanwhile, the Post published an article on the intelligence program Wednesday, though only after deleting a description of a monitoring device at Casey's request. A CIA official said the agency had been negotiating with the Post "for months" to persuade editors to remove any material that might damage national security.

The information contained in the NBC and Post reports, while related to the Pelton trial, was not disclosed in court proceedings but instead was based on independent reporting. It is understood, however, that information supplied to Moscow by Pelton during his espionage work had already enabled the Soviets to neutralize the U.S. program.

The Administration considered the information involved so sensitive that President Reagan telephoned Katharine Graham, chairman of the board of the Washington Post Co., on May 10 to request that the newspaper not publish any data that might endanger national security.

Reagan called Graham "to indicate to her that some of the matters we were discussing with the Post were very serious and publication of them would do irreparable harm to our national security," White House spokesman Larry Speakes said Wednesday.

However, Speakes said Reagan had no judgment as to whether the omitting of some details from the article had satisfied the CIA's concern about national security violations.

Article Delayed

Benjamin C. Bradlee, the Post's executive editor, said that although the newspaper deleted "two or three paragraphs of technical detail of a device used for monitoring," he said he did not believe the original article contained anything the Soviets did not already know. The intelligence program Pelton disclosed, he said, "has been mentioned several times in the past in American newspapers."

Still, the Post's long delay in publishing its article and its deletion of some material were construed by at least one Justice Department official as a sign Casey's campaign has had a measure of success. "It had the desired effect," the official said.

George Lauder, a CIA spokesman, said that while "the matter is still in the hands of our lawyers and there are a lot of ramifications I can't explain, it's obvious the Post did remove some material that was considered damaging."

Asked about opposition within the Justice Department to prosecuting the news media, Lauder said: "We don't run the Justice Department. If people who are sworn to enforce the law decide not to enforce it, that's their business."

Lauder indicated that a major objective of invoking the 1950 secrets law has been to impress the news media with what the CIA regards as an increasingly serious problem of "a hell of a lot of leaks that are really destroying our intelligence capability."

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